

**RULES
OF
TENNESSEE DEPARTMENT OF TRANSPORTATION
RIGHT-OF-WAY DIVISION**

**CHAPTER 1680-6-2
RELOCATION ASSISTANCE PROGRAM**

TABLE OF CONTENTS

1680-6-2-.01	Purpose	1680-6-2-.11	Moving Payments - Non-Residential
1680-6-2-.02	Applicability	1680-6-2-.12	Ineligible Moving Expenses
1680-6-2-.03	Definitions	1680-6-2-.13	Replacement Housing Payments
1680-6-2-.04	Administration - General	1680-6-2-.14	Mobile Homes
1680-6-2-.05	Relocation Plan	1680-6-2-.15	Last Resort Housing
1680-6-2-.06	Relocation Notices	1680-6-2-.16	Appeals
1680-6-2-.07	Relocation Assistance Advisory Services	1680-6-2-.17	Repealed
1680-6-2-.08	Aliens Not Lawfully Present in the United States	through	
1680-6-2-.09	Relocation Payments Generally	1680-6-2-.37	
1680-6-2-.10	Moving Payments - Residential		

1680-6-2-.01 PURPOSE.

- (1) The purpose of these Rules is to implement the Uniform Relocation Assistance Act of 1972, as amended, T.C.A. § 13-11-101 et seq., by establishing regulations and procedures for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by the Department with or without federal financial assistance, programs or projects undertaken by local agencies with federal or state financial assistance, and programs or projects undertaken by persons with federal financial assistance, in order that such displaced persons shall not suffer disproportionate injuries as a result of federal or state programs or projects for the benefit of the public as a whole, and to minimize the hardship of displacement on such persons.
- (2) It is also the purpose of these Rules to assure compliance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601 et seq., and the implementing regulations at 49 C.F.R., Part 24, where applicable to programs or projects undertaken with federal financial assistance.

Authority: T.C.A. §§13-11-102, 13-11-113, and 13-11-119. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.01 filed and effective February 1, 2003.

1680-6-2-.02 APPLICABILITY.

These Rules apply to:

- (1) Programs or projects undertaken by the Department with or without federal financial assistance;
- (2) Programs or projects undertaken by local agencies with federal or state financial assistance administered by or through the Department; and
- (3) Programs or projects undertaken by persons with federal financial assistance administered by or through the Department.

Authority: T.C.A. §§13-11-102, 13-11-113, and 13-11-119. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.02 filed and effective February 1, 2003.

1680-6-2-.03 DEFINITIONS.

- (1) “Act” means the Uniform Relocation Assistance Act of 1972, as amended and codified in T.C.A. § 13-11-101 et seq.
- (2) “Alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 C.F.R. § 103.12, or as amended, and includes the following:
 - (a) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act and whose stay in the United States has not been authorized by the United States Attorney General; and
 - (b) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.
- (3) “Business” means any lawful activity, excepting a farm operation, conducted primarily:
 - (a) For the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;
 - (b) For the sale of services to the public;
 - (c) By a nonprofit organization; or
 - (d) For assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted; provided, however, that such outdoor advertising shall be considered a business solely for the purpose of obtaining moving and related expenses as provided in T.C.A. § 13-11-105 and these Rules.
- (4) “Comparable replacement dwelling” means any dwelling that is:
 - (a) Decent, safe, and sanitary, as further defined in this Rule;
 - (b) Adequate in size to accommodate the occupants;
 - (c) Within the financial means of the displaced person, which means that:
 1. A replacement dwelling for a homeowner in occupancy at the displacement dwelling for at least 180 days prior to the initiation of negotiations (180-day homeowner) is considered to be within the homeowner’s financial means if the homeowner will receive the full replacement housing payment as described in Rule 1680-6-2-.13, Subparagraph (1)(b), all increased mortgage interest costs as described in Rule 1680-6-2-.13, Subparagraph (1)(d), and all incidental expenses as described in Rule 1680-6-2-.13, Subparagraph (1)(e), plus any additional amount required to be paid under Rule 1680-6-2-.15, Last Resort Housing; or
 2. A replacement rental dwelling is considered to be within an eligible displaced person’s financial means if, after receiving rental assistance under Rule 1680-6-2-.13, Paragraph (2), the displaced person’s monthly rent and estimated monthly utility costs for the replacement dwelling do not exceed the person’s base monthly rental for the displacement dwelling as described in Rule 1680-6-2-.13, Subparagraph (2)(b); or

(Rule 1680-6-2-.03, continued)

3. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if the displacing agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds 30 percent of such person's gross monthly household income or, if receiving a welfare assistance payment from a program that designates amounts for shelter and utilities, the total of the amounts designated for shelter and utilities; provided, however, that such rental assistance must be paid under Rule 1680-6-2-.15, Last Resort Housing;
- (d) Functionally equivalent to the dwelling from which the occupant was displaced, which means that:
 1. The replacement dwelling performs the same function, provides the same utility, and is capable of contributing to a comparable style of living; and
 2. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principle features must be present; and
 3. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used; provided, however, that in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the displacing agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
- (e) In an area not subject to unreasonable adverse environmental conditions;
- (f) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment;
- (g) On a site that is typical in size for residential development with normal site improvements, including customary landscaping; provided, however, that the site need not include special improvements such as outbuildings, swimming pools, or greenhouses; and
- (h) Currently available to the displaced person on the private market; provided, however, that a comparable replacement dwelling for a person receiving government housing assistance before displacement may reflect similar government housing assistance.
- (5) "Contributing materially" means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period of time as the displacing agency determines to be more equitable, a business or farm operation:
 - (a) Had average annual gross receipts of at least \$5,000; or
 - (b) Had average annual net earnings of at least \$1,000; or
 - (c) Contributed at least 33 1/3% of the owner's or operator's average annual gross income from all sources; or

(Rule 1680-6-2-.03, continued)

- (d) If the application of the above criteria creates an inequity or hardship in any given case, the displacing agency may approve the use of other criteria determined to be appropriate.
- (6) “Decent, safe and sanitary dwelling” means a dwelling that meets applicable housing and occupancy codes. Even if not required by applicable housing and occupancy codes, however, the following standards shall apply unless waived for good cause by the agency funding the project. The dwelling shall:
 - (a) Be structurally sound, weather-tight, and in good repair;
 - (b) Contain a safe electrical wiring system adequate for lighting and other electrical devices;
 - (c) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person;
 - (d) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person(s), and should contain a sufficient number of bedrooms to ensure that no two unmarried blood relatives of the opposite sex over the age of six are required to share a bedroom;
 - (e) Contain a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall and a toilet, all in good working order and properly connected to an appropriate water source and a sewage drainage system;
 - (f) Contain, in the case of a housekeeping dwelling, a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;
 - (g) Contain unobstructed egress to safe, open space at ground level, or, if the replacement dwelling unit is on the second story or above with access from or through a common corridor, the common corridor must have at least two means of egress; and
 - (h) For a displaced person who is handicapped, be free of any barriers that would preclude reasonable ingress, egress or use of the dwelling by such displaced person.
- (7) “Department” means the Tennessee Department of Transportation.
- (8) “Displaced person” means, except as provided below in Subparagraph (b):
 - (a) Any person who moves from real property, or moves such person’s personal property from real property, including a person who occupies the real property prior to its acquisition but does not meet the length of occupancy requirements described in Rule 1680-6-2-.13, Paragraphs (1) and (2):
 1. As a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a displacing agency; or
 2. On which such person is a residential tenant or conducts a small business, a farm operation, or an outdoor advertising business defined in Rule 1680-6-2-.03, Subparagraph (2)(d), as a direct result of rehabilitation or demolition for a program or project undertaken by a displacing agency in any case in which the head of the displacing agency determines that such displacement is permanent; and

(Rule 1680-6-2-.03, continued)

3. Solely for the purposes of obtaining moving expenses under T.C.A. §§ 13-11-105(a) and (b) and relocation assistance advisory services under T.C.A. § 13-11-108, any person who moves from real property, or moves such person's personal property from real property as a direct result of a written notice of intent to acquire, or the acquisition of, other real property, in whole or in part, on which such person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or as a direct result of rehabilitation or demolition of other real property on which such person conducts a business or a farm operation, under a program or project undertaken by a displacing agency where the head of the displacing agency determines that such displacement is permanent.
- (b) "Displaced person" does not include:
1. A person who is not required to relocate permanently as a direct result of a project, including a person who retains the right of use and occupancy of the real property for life following its acquisition by the displacing agency; or
 2. A person whom the displacing agency determines is not displaced as a direct result of a partial acquisition; or
 3. A person who moves before the initiation of negotiations, unless the displacing agency determines that the person was displaced as a direct result of the project; or
 4. A person who initially enters into occupancy of the property after the date of its acquisition for the project; or
 5. A person who has occupied the property for the purpose of obtaining assistance under the Act; or
 6. A person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced by the project; provided, however, that such notice shall not be issued unless the person has not moved and the displacing agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the initiation of negotiations for the real property; or
 7. An owner-occupant who voluntarily conveys the property after being informed in writing that the property will not be acquired by condemnation in the absence of a mutually satisfactory agreement on the terms of conveyance; provided, however, that any tenant of the property displaced as a direct result of the conveyance shall be considered a displaced person; or
 8. A person who is determined to be in unlawful occupancy, as further defined in this Rule, prior to the initiation of negotiations.
 9. An alien not lawfully present in the United States, as further defined in this Rule, and who has been determined to be ineligible for relocation benefits in accordance with Rule 1680-6-2-.08.
- (9) "Displacing agency" means any state agency undertaking a program or project with or without federal financial assistance, a local agency undertaking a program or project with federal or state financial

(Rule 1680-6-2-.03, continued)

assistance, or a person undertaking a program or project with federal financial assistance, when any such program or project causes a person to be displaced.

- (10) "Dwelling" means the place of permanent or customary and usual residence of a person according to local custom or law, including a single family house; a single family unit in a two-family, multi-family or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.
- (11) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.
- (12) "Federal financial assistance" means a grant, loan, or contribution provided by the United States government, except any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.
- (13) "Initiation of negotiations" means the following:
 - (a) Whenever the displacement results from the acquisition of property by the displacing agency, the "initiation of negotiations" means the delivery of the initial written offer of just compensation by the displacing agency to the owner or the owner's representative to purchase the real property for the project; provided, however, that if the displacing agency issues a notice of its intent to acquire the real property, and the person moves after that notice, but before delivery of the initial written offer of just compensation, the "initiation of negotiations" means the actual move of the person from the property.
 - (b) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of real property, the "initiation of negotiations" means the notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.
- (14) "Local agency" means any political subdivision of the state or any department, agency, or instrumentality of a political subdivision of the state or any department, agency, or instrumentality of two (2) or more political subdivisions of the state when carrying out or undertaking programs or projects with federal or state financial assistance.
- (15) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property under the laws of this State, together with the credit instruments, if any, secured thereby.
- (16) "Nonprofit organization" means an organization incorporated under state law as a non-profit organization, and which is exempt from paying Federal income taxes under Section 501 of the Internal Revenue Code (26 USC § 501).
- (17) "Owner" means a person who holds any of the following interests in real property:
 - (a) Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
 - (b) An interest in a cooperative housing project which includes the right to occupy a dwelling; or
 - (c) A contract to purchase any of the interests or estates described above; or

(Rule 1680-6-2-.03, continued)

- (d) Any other interest, including a partial interest, which in the judgment of the displacing agency warrants consideration as ownership.
- (18) "Person" means any individual, family, partnership, corporation, or association.
- (19) "Salvage value" means the probable selling price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.
- (20) "Small business" means a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays or devices do not qualify as a business for purposes of Rule 1680-6-2-.11, Paragraph (4), Re-establishment Expenses -- Non-Residential.
- (21) "State financial assistance" means a grant, loan, or contribution provided by the State of Tennessee, except any state guarantee or insurance, any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual, and any annual payment or capital loan to the state.
- (22) "Tenant" means a person who has the temporary lawful use and occupancy of real property owned by another.
- (23) "Unlawful occupancy" means the occupancy of real property by a person who has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations, or the occupancy of real property by a person determined by the displacing agency to be a squatter who is occupying the property without the permission of the owner and otherwise has no legal rights to occupy the property. A displacing agency, at its own discretion, may consider such a squatter to be in unlawful occupancy.
- (24) "Utility costs" means and includes expenses for heat, lights, water and sewer.

Authority: T.C.A. §§13-11-103 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.03 filed and effective February 1, 2003.

1680-6-2-.04 ADMINISTRATION - GENERAL.

- (1) Contracting for Relocation Assistance Services.

To prevent unnecessary expense and duplication of functions, and to promote uniform and effective administration of the Act, the Department or other displacing agency may enter into contracts with any individual, firm or corporation for services in connection with a program or project, or may carry out all functions provided for under the Act through any federal agency, or any state agency, or any local agency, or any person having an established organization for conducting the provisions of the Act.

- (2) State Share of Costs.

The cost to a local agency of providing payments and assistance under T.C.A. §§ 13-11-109 and 13-11-110 shall be included as part of the cost of a program or project for which state financial assistance

(Rule 1680-6-2-.04, continued)

is available to such local agency, and such local agency shall be eligible for state financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(3) Assurances, Monitoring and Corrective Action.

(a) The Department shall not approve any grant to, or contract or agreement with, a local agency or other displacing agency under which state or federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person unless the Department receives satisfactory assurances from the local agency or other displacing agency that:

1. Fair and reasonable relocation payments and assistance shall be provided to or for displaced persons in accordance with T.C.A. §§ 13-11-105 through 13-11-107;
2. Relocation assistance programs offering the services described in T.C.A. § 13-11-108 shall be provided to such displaced persons; and
3. There is compliance with the provisions of T.C.A. §§ 13-11-108(c)(3) and 13-11-109.

(b) The Department may monitor compliance with the Act and these Rules and take such corrective action as may be necessary to bring the local agency or other displacing agency into compliance with the Act and these Rules. The Department may also apply sanctions in accordance with any applicable program regulations.

(4) Prevention of Fraud, Waste and Mismanagement.

The displacing agency shall take appropriate measures to carry out the requirements of these Rules in a manner that minimizes fraud, waste and mismanagement.

(5) Civil Rights.

(a) In accordance with federal and state law, it is Department policy that only open housing available to all without regard to race, color, creed, religion, sex, age, handicap, familial status or national origin will be used as replacement housing resources.

(b) It is further Department policy to ensure that no person be excluded from participation in, be denied any benefits of, or be subjected to discrimination under any program or activity of the State because of race, creed, color, religion, sex, age, handicap, familial status or national origin, and to take affirmative action to promote the full implementation of this policy throughout the State.

(c) Upon receipt of a fair housing discrimination complaint, the Department or other displacing agency will instruct the displaced person to write to one of the following:

U.S. Department of Housing and Urban Development
Fair Housing and Equal Opportunity Compliance
Division Agency of Housing and Urban Development
Richard D. Russell, Federal Building
75 Spring Street, S.W.
Atlanta, Georgia 30303

Or

(Rule 1680-6-2-.04, continued)

Tennessee Human Rights Commission
Cornerstone Square Building
530 Church Street, Suite 400
Nashville, Tennessee 37243

- (d) The letter should contain a statement that the person believes he has been the victim of housing discrimination and a request for appropriate complaint forms. The displacing agency should assist in completing the forms and in having the complaint notarized.
- (6) Recordkeeping and Reports.
 - (a) The displacing agency shall maintain adequate records of its displacement and relocation activities in sufficient detail to demonstrate compliance with the Act and these Rules. These records shall be maintained for at least 3 years after each displaced person receives the final payment to which such person is entitled under the Act and these Rules.
 - (b) Records maintained by the displacing agency in accordance with these Rules are confidential regarding their use as public information, unless applicable law provides otherwise.
 - (c) The displacing agency shall submit a report of its displacement activities under these Rules if requested by the Department or the federal agency funding the project, if applicable. The report shall be submitted in a form acceptable to the Department or the applicable federal agency.
- (7) Notices.

Any notice that a displacing agency is required to provide to a displaced person under the Act or these Rules shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in the displacing agency's files. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or additional assistance.

Authority: T.C.A. §§13-11-112, 13-11-113, 13-11-114, and 13-11-119. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.04 filed and effective February 1, 2003.

1680-6-2-.05 RELOCATION PLAN.

- (1) During the early stages of development, programs or projects subject to these Rules shall be planned in such a manner that the problems associated with the displacement of individuals, families, businesses, farm operations, and nonprofit organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning shall precede any action by the displacing agency that will cause displacement. The scope of planning should be commensurate with the complexity and nature of the anticipated displacing activity, and it should include an evaluation of program resources available to carry out timely and orderly relocations.
- (2) Planning may involve a relocation survey or study, which may include:
 - (a) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and the handicapped when applicable;

(Rule 1680-6-2-.05, continued)

- (b) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental charges) that are expected to be available to fulfill the needs of those households displaced; provided that when an adequate supply of comparable replacement housing is not expected to be available, consideration of housing of last resort actions should be instituted;
- (c) An estimate of the number, type and size of the businesses, farm operations and nonprofit organizations to be displaced and the approximate number of employees that may be affected;
- (d) Consideration of any special relocation advisory services that may be necessary from the displacing agency and other cooperating agencies; and
- (e) An estimate of the project lead time needed to accomplish relocation activities.

Authority: T.C.A. §13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.05 filed and effective February 1, 2003.

1680-6-2-.06 RELOCATION NOTICES.

(1) Relocation Information Notice.

As soon as feasible, the displacing agency shall send to each person scheduled to be displaced a written notice generally describing the displacing agency's relocation program and, at a minimum, this notice shall:

- (a) Inform the person that he or she may be displaced because of the displacing agency's project and describe generally the relocation benefits for which the person may be eligible, the basic conditions of eligibility and the procedures for obtaining the benefits;
- (b) Inform the person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing claims and other necessary assistance to help them successfully relocate;
- (c) Inform the person that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available, as provided in Rule 1680-6-2-.07, Paragraph (5) below, and that he or she will not be required to move without at least 90 days' advance written notice, except in the case of a major disaster or an emergency as provided in Rule 1680-6-2-.07, Subparagraph (5)(c) below;
- (d) Inform the person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in Rule 1680-6-2-.08, Paragraph (4) below; and
- (e) Describe the person's right to appeal the displacing agency's determination as to eligibility for, or the amount of, any relocation payment for which the person may be eligible.

(2) Notice of Eligibility for Relocation Assistance.

- (a) A displaced person's eligibility for relocation assistance shall begin on the date of the initiation of negotiations (as defined in Rule 1680-6-2-.03 above) for the occupied property.

(Rule 1680-6-2-.06, continued)

- (b) Upon the initiation of negotiations, the displacing agency shall provide the displaced person(s) with written notice of eligibility for relocation assistance. This notice shall be hand-delivered to the owner occupants on the date of the initiation of negotiations, and it shall either be hand-delivered to all tenant occupants on that date or hand-delivered or sent by certified mail no later than ten (10) days after the initiation of negotiations.
 - (c) The Notice of Eligibility for Relocation Assistance may be combined with the Notice of Earliest Vacation Date (Ninety-Day Notice), described below.
- (3) Notice of Earliest Vacation Date (Ninety-Day Notice).
 - (a) No lawful occupant shall be required to move unless he or she has received at least 90 days' advance written notice of the earliest date by which he or she may be required to vacate the property, except in the case of a major disaster or emergency as provided in Rule 1680-6-2-.07, Subparagraph (5)(c) below.
 - (b) This Notice of Earliest Vacation Date (Ninety-Day Notice) shall either state a specific date, not less than 90 days after the notice, by which the occupant may be required to move, or it shall state that the occupant will receive a subsequent Notice to Vacate, at least 30 days in advance, stating the specific date by which the person will be required to vacate the property. If the Ninety-Day Notice is delivered before a comparable replacement dwelling is made available, the notice shall state that the occupant will not have to move earlier than 90 days after such dwelling is made available, except in the case of a major disaster or emergency as provided in Rule 1680-6-2-.07, Subparagraph (5)(c) below.
 - (c) The displacing agency may deliver the Ninety-Day Notice 90 days before it expects the person to be displaced or earlier, and this notice may be combined with the Notice of Eligibility for Relocation Assistance, described above.
- (4) Notice to Vacate (Thirty-Day Notice).
 - (a) The displacing agency shall give a displaced person at least 30 days' advance written notice of the specific date by which the person will be required to vacate the property, except in the case of a major disaster or emergency as provided in Rule 1680-6-2-.07, Subparagraph (5)(c), below or under the circumstances described in Subparagraph (f) below.
 - (b) This Notice to Vacate (Thirty-Day Notice) shall state the specific date, not less than 30 days after the date on which the notice is received, by which the occupant will be required to vacate the property. The date given to vacate the property shall be at least 90 days after the date on which the displaced person received the Notice of Earliest Vacation Date (Ninety-Day Notice) or, on residential displacements, at least 90 days after the date on which the displaced person received the Notice of Eligibility for Relocation Assistance, whichever is later.
 - (c) The Notice to Vacate may not be given until after the displacing agency has obtained legal possession of the property.
 - (d) Before issuing the Notice to Vacate, the displacing agency must verify that comparable replacement housing is available for the displaced person within the amount of the original offer for replacement housing. Also, if requested by the displaced person, the address of at least one comparable dwelling must be provided.

(Rule 1680-6-2-.06, continued)

- (e) The Notice to Vacate shall either be hand-delivered or sent by certified mail. If sent by certified mail, the specified date to vacate the property must be at least 35 days after the date on which the notice is mailed, to ensure that the displaced person is provided the full 30 days to which he or she is entitled.
 - (f) The Notice to Vacate need not be issued if the displaced person has already relocated to replacement housing.
- (5) Subsequent Notice of Non-Displacement.
 - (a) A displaced person who moves after receiving a Notice of Eligibility for Relocation Assistance is eligible for all applicable relocation assistance benefits regardless of whether the real property is ultimately acquired, unless prior to the move the displacing agency sends written notice that the person will not be displaced by the project.
 - (b) If, after sending a Notice of Eligibility for Relocation Assistance, the displacing agency determines that the person will not need to be displaced, the displacing agency shall promptly notify the person in writing that there is no need to relocate.
 - (c) Such person shall be reimbursed for any reasonable relocation costs incurred prior to receipt of the Subsequent Notice of Non-Displacement, including any payments due under a binding written contract for relocation services entered into after the date of the initiation of negotiations.

Authority: T.C.A. §13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.06 filed and effective February 1, 2003.

1680-6-2-.07 RELOCATION ASSISTANCE ADVISORY SERVICES.

- (1) General.

The displacing agency shall provide relocation assistance advisory services in accordance with the Act and these Rules, and in accordance with applicable federal statutes and regulations where the program or project is conducted with federal financial assistance. The purpose of these services is to minimize the impact of displacement by providing information and other assistance to help displaced persons, businesses and farm operations to relocate.

- (2) Coordination of Relocation Activities.

Relocation activities shall be coordinated with project work and other displacement causing activities to ensure that, to the extent feasible, displaced persons receive consistent treatment and duplication of functions is minimized.

- (3) Eligibility for Relocation Assistance Advisory Services.

- (a) The displacing agency shall provide relocation assistance advisory services, as described below, to all displaced persons.
 - (b) If the displacing agency determines that any person occupying real property immediately adjacent to real property where the displacing activity occurs will be caused substantial economic injury as a result of the displacing activity, the displacing agency may make relocation assistance advisory services available to such person.

(Rule 1680-6-2-.07, continued)

- (c) Any person who occupies property acquired by the displacing agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for the project, shall be eligible for relocation assistance advisory services to the extent determined by the displacing agency.
 - (d) Aliens not lawfully present in the United States shall not be eligible for relocation assistance advisory services or relocation payments, except as may be provided in accordance with Rule 1680-6-2-.08 below.
- (4) Relocation Assistance Advisory Services To Be Provided.
 - (a) The displacing agency shall personally interview each displaced person to determine, and make timely recommendations on, the person's relocation assistance needs and preferences, if any. The displacing agency shall also explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements and the procedures for obtaining such assistance.
 - (b) The displacing agency shall assure the displaced person that he or she cannot be required to move permanently from his or her displacement dwelling unless at least one comparable replacement dwelling is made available, as set forth in Rule 1680-6-2-.07, Paragraph (5) below.
 - (c) Where applicable, the displacing agency shall provide current and continuing information on the availability, purchase prices and rental costs of comparable replacement dwellings.
 - 1. As soon as feasible, the displacing agency shall provide the displaced person with a written notice of the specific comparable replacement dwelling and the price or rent used to determine the maximum replacement housing payment or rental assistance payment for which the displaced person may qualify, with the basis for that determination.
 - 2. Where feasible, housing should be inspected before being made available to assure that it meets applicable standards for a decent, safe and sanitary dwelling. If such an inspection is not made, the displacing agency shall notify the displaced person that a replacement housing payment or rental assistance payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe and sanitary.
 - 3. Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require the displacing agency to provide a person a larger payment than is necessary to enable the person to relocate to a comparable replacement dwelling.
 - 4. All persons, especially the elderly and handicapped, shall be offered transportation to inspect housing to which they are referred.
 - (d) Where applicable, the displacing agency shall assist any person displaced from a business or farm operation to obtain and become established, if possible, in a suitable replacement location. Accordingly, the displacing agency shall provide current and continuing information on the

(Rule 1680-6-2-.07, continued)

availability, purchase prices and rental costs of suitable commercial and farm properties and locations.

- (e) The displacing agency shall offer to assist in providing transportation, especially for the elderly and the handicapped, to inspect comparable replacement dwellings to which displaced persons are referred.
 - (f) The displacing agency shall minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available and such other help as may be appropriate.
 - (g) The displacing agency shall supply persons to be displaced with appropriate information concerning federal and state housing programs, loan and other management programs administered by the Small Business Administration, and other federal and state programs offering assistance to persons to be displaced.
- (5) Availability of Comparable Replacement Dwelling Before Displacement.
- (a) No displaced person shall be required to move from his or her dwelling unless at least one comparable replacement dwelling has been made available to the person. Where possible, three or more comparable replacement dwellings shall be made available.
 - (b) A comparable replacement dwelling shall be considered to have been made available to a person, if:
 - 1. The person is informed of its location; and
 - 2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
 - 3. Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person may be entitled in sufficient time to complete the purchase or lease of the property.
 - (c) The Department or, where applicable, the federal agency funding the project, may waive the requirement to make at least one comparable replacement dwelling available prior to displacement, as provided in Subparagraph (a) above, where it is demonstrated that a person must move because of:
 - 1. A major disaster as defined in the Disaster Relief Act of 1974, 42 U.S.C. § 5121 et seq.; or
 - 2. A national emergency as declared by the President of the United States; or
 - 3. Any other emergency that requires the person to move immediately from the displacement dwelling because continued occupancy of that dwelling would create a substantial danger to the health of the occupants or the public.
 - (d) In any case where a person is required to move for a temporary period because of an emergency, as described in Subparagraph (c) above, the displacing agency shall:
 - 1. Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe and sanitary dwelling; and

(Rule 1680-6-2-.07, continued)

2. Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and
3. As soon as feasible, make available to the displaced person at least one comparable replacement dwelling; and
4. For the purposes of filing a claim and meeting the eligibility requirements for a relocation payment, consider the date of displacement as the date the person moves from the temporarily occupied dwelling.

Authority: T.C.A. §§13-11-108 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.07 filed and effective February 1, 2003.

1680-6-2-.08 ALIENS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(1) Certification Requirement.

Each person seeking relocation payments or relocation assistance advisory services shall, as a condition of eligibility, certify:

- (a) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.
- (b) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. This certification may be made by the head of the household on behalf of other family members.
- (c) In the case of an unincorporated business, farm operation or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. This certification may be made by the principal owner, manager or operating officer on behalf of other persons with an ownership interest.
- (d) In the case of an incorporated business, farm operation or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(2) Content of Certification.

The certification required under Subparagraphs (1)(a), (1)(b) and (1)(c) of this Rule shall indicate whether such person is a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the content of the certification in addition to those contained in this Paragraph shall be within the discretion of the federal funding agency, where applicable, or the displacing agency.

(3) Review of Validity of Certification.

- (a) The displacing agency shall consider the certification provided under Paragraph (1) of this Rule to be valid, unless the displacing agency determines in accordance with Subparagraph (c) below that it is invalid based on a review of an alien's documentation or other information that the displacing agency considers reliable and appropriate.

(Rule 1680-6-2-.08, continued)

- (b) Any review of a certification shall be conducted by the displacing agency in a non-discriminatory manner. The displacing agency shall apply the same standard of review to all such certifications, except that the standard may be revised periodically.
- (c) If, based on a review of an alien's documentation or other credible evidence, a displacing agency has reason to believe that a person's certification is invalid and, therefore, that such person may be an alien not lawfully present in the United States, the displacing agency shall obtain the following information before making a final determination:
 - 1. If the displacing agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing agency shall obtain verification of the alien's status from the local Immigration and Naturalization Service (INS) Office. Any request for INS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation.
 - 2. If the displacing agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.
- (4) Eligibility for Relocation Assistance or Relocation Payments.
 - (a) No relocation assistance advisory services or relocation payments shall be provided to a person who has not provided the certification required in Paragraph (1) of this Rule or who has been determined to be an alien not lawfully present in the United States, unless such person can demonstrate to the displacing agency's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to such person's spouse, parent or child who is an alien lawfully admitted for permanent residence in the United States, as provided in Subparagraph (c) below.
 - (b) In computing relocation payments under this Chapter, the displacing agency shall not include relocation payments for any member of a household or any owner of an unincorporated business, farm operation or nonprofit organization that is determined to be ineligible for such payments as an alien not lawfully present in the United States. The amount of any such relocation payments for which such household or unincorporated business, farm operation or nonprofit organization would otherwise be eligible shall be computed for the household based on the number of eligible household members and for the unincorporated business, farm operation or nonprofit organization based on the ratio of ownership between eligible and ineligible owners.
 - (c) For the purposes of Subparagraph (a) of this Paragraph, "exceptional and extremely unusual hardship" to the spouse, parent or child of an alien not lawfully present in the United States means that denial of relocation payments and relocation assistance advisory services to such person will directly result in:
 - 1. A significant and demonstrable adverse impact on the health or safety of such spouse, parent or child;
 - 2. A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent or child is a member; or

(Rule 1680-6-2-.08, continued)

3. Any other impact that the displacing agency determines will have a significant and demonstrable adverse impact on such spouse, parent or child.

Authority: T.C.A. §13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.08 filed and effective February 1, 2003.

1680-6-2-.09 RELOCATION PAYMENTS GENERALLY.

(1) Time for Filing Claims.

- (a) Claims for relocation payments shall be filed with the displacing agency within 18 months after:
 1. For tenants, the date of displacement;
 2. For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.
 3. The date of displacement, as used in this Subparagraph, means the date the person actually moves or, if later, the date a comparable replacement dwelling is made available.
- (b) The displacing agency shall extend the time for filing a claim upon good cause being shown.

(2) Documentation.

- (a) Any claim for a relocation payment shall be supported by sufficient documentation to prove the expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. Specific documentation requirements are identified elsewhere in these Rules.
- (b) The displacing agency shall provide the displaced person with reasonable assistance as needed to complete and file a claim for payment.

(3) Prompt Review and Payment.

- (a) The displacing agency shall review claims for relocation payments in an expeditious manner. The claimant shall be promptly notified if additional documentation is required to support the claim.
- (b) The displacing agency shall pay a claim as soon as feasible following receipt of sufficient documentation to support the claim.

(4) Advance Payments.

If a displaced person demonstrates a need for an advance relocation payment to avoid a hardship, the displacing agency shall issue the payment, subject to such safeguards as the displacing agency may require to ensure that the objective of the payment is accomplished.

(5) Multiple Occupants of One Displacement Dwelling.

- (a) If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the

(Rule 1680-6-2-.09, continued)

displacing agency, of any relocation payments that would have been made if the occupants had moved together to a comparable replacement dwelling.

- (b) However, if the displacing agency determines that two or more occupants maintained separate households within the same displacement dwelling, such occupants shall have separate entitlements to relocation payments.

(6) Notice of Denial of Claim.

If the displacing agency disapproves all or part of a claim for a relocation payment or refuses to consider the claim on its merits because of untimely filing or other grounds, the displacing agency shall promptly notify the claimant in writing of its decision, the basis for the decision, and the procedures for appealing the decision.

(7) Eviction for Cause.

- (a) Any person who lawfully occupies the real property on the date of the initiation of negotiations is presumed to be entitled to any relocation payments or benefits available under the Act and these Rules unless the displacing agency determines that:

1. The person received an eviction notice prior to the initiation of negotiations and as a result of that notice is later evicted; or
2. The person is evicted after the initiation of negotiations for serious or repeated violations of material terms of a lease or occupancy agreement; and
3. In either case, the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance available under the Act or these Rules.

- (b) Any eviction for cause must conform to applicable state and local law.

- (c) This Paragraph applies only to persons who would otherwise have been displaced by the displacing agency's program or project.

(8) Deductions from Relocation Payments.

- (a) The displacing agency may deduct from relocation payments any rent that the displaced business, displaced person or farm operation owes to the displacing agency; provided that no deduction shall be made if it would prevent the displaced person from obtaining comparable replacement housing.
- (b) The displacing agency shall not withhold any part of a relocation payment to a displaced person to satisfy any other creditor. No relocation payment made under the Act or these Rules shall be subject to attachment or execution at law or equity.

(9) No Duplication of Payments.

No person shall receive any payment under the Act or these Rules if that person receives a payment under Federal, State or local law that is determined by the displacing agency to have the same purpose and effect as a payment under the Act or these Rules.

(10) Relocation Payments Not Considered Income.

(Rule 1680-6-2-.09, continued)

No relocation payment received by a displaced person under the Act or these Rules shall be considered as income for any tax purposes under Federal or State law, or for the purpose of determining eligibility or the extent of eligibility for public assistance under Federal or State law, except for any Federal law providing low-income housing assistance.

Authority: T.C.A. §§13-11-113, 13-11-115, and 13-11-117. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.09 filed and effective February 1, 2003.

1680-6-2-.10 MOVING PAYMENTS - RESIDENTIAL.

(1) Payment for Actual and Reasonable Moving Expenses.

A displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to reimbursement for actual moving and related expenses, as the displacing agency determines to be reasonable and necessary. Expenses eligible for reimbursement include the following:

- (a) The costs of transporting the displaced person and the displaced person's personal property to a replacement dwelling within a 50-mile radius of the displacement dwelling. Transportation costs for any distance beyond 50 miles are not eligible for reimbursement, unless the displacing agency has made a prior determination that relocation beyond 50 miles is justified.
 - 1. The displaced person may be reimbursed for the use of a personal vehicle at the standard mileage reimbursement rate provided in the displacing agency's own travel regulations, if any, or the current Standard Mileage Rate established by the Tennessee Department of Finance and Administration in the Comprehensive Travel Regulations, General Reimbursement Rate Schedule, and/or for the actual, reasonable fees charged by a commercial moving service.
 - 2. Upon prior approval of the displacing agency, a displaced person may be reimbursed for special transportation services, such as an ambulance, as may be required for medical reasons.
 - 3. Upon a showing of need, the actual, reasonable costs of meals and lodging may be reimbursed if pre-approved by the displacing agency.
- (b) The costs of packing, crating, unpacking and uncrating personal property.
- (c) The costs of disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. This includes fees or charges for reinstalling telephone or utility services.
- (d) The costs of storage for personal property, if previously approved by the displacing agency, but not for any period greater than 12 months unless the displacing agency expressly determines that a longer period is necessary.
- (e) The cost of insurance for the replacement value of personal property moved or stored in connection with the relocation, or the reasonable replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person or his or her agent or employee), where insurance covering such loss, theft or damage is not reasonably available.

(Rule 1680-6-2-.10, continued)

- (f) Other moving-related costs, excluding ineligible moving expenses identified in Rule 1680-6-2-.12 below, as the displacing agency may determine to be reasonable and necessary.

(2) Direct Payment to a Moving Company.

If requested by the displaced person, payments for moving costs may be paid directly to a licensed commercial moving service in lieu of payment to the displaced person. When a commercial moving service willing to accept direct payment has been selected by the displaced person and approved by the displacing agency, the displaced person shall sign a written statement assigning the relocation payment to the moving company.

(3) Fixed Payment for Moving Expenses.

- (a) As an alternative to payment for actual moving and related expenses under paragraph (1) of this Rule, a displaced person may choose to receive a fixed expense and dislocation allowance. When this method of payment is chosen, the displacing agency shall pay the full amount of the allowance to the displaced person after the relocation has been completed without any need for documentation of moving expenses actually incurred.
- (b) The amount of this allowance shall be determined by reference to the applicable schedule approved by the Federal Highway Administration, as amended from time to time. This includes a provision that the expense and dislocation allowance to a person with minimal personal possessions who occupies a dormitory style room shared by two or more unrelated persons, or to a person whose residential move is performed by an agency at no cost, shall be limited to \$50.

Authority: T.C.A. §§13-11-105 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.10 filed and effective February 1, 2003.

1680-6-2-.11 MOVING PAYMENTS - NON-RESIDENTIAL.

(1) Payment for Actual and Reasonable Moving Expenses.

Any business or farm operation that qualifies as a displaced person is entitled to reimbursement for actual moving and related expenses, as the displacing agency determines to be reasonable and necessary. Expenses eligible for reimbursement include the following:

- (a) The costs of transporting personal property within a 50-mile radius of the displaced dwelling or farm operation. Transportation costs for any distance beyond 50 miles are not eligible for reimbursement, unless, in exceptional cases, the displacing agency has made a prior determination that relocation beyond 50 miles is justified.
- (b) The costs of packing, crating, unpacking and uncrating personal property.
- (c) The costs of disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment and other personal property, including substitute personal property as described in Subparagraph (k) below. This includes fees or charges for reinstalling telephone or utility services. It also includes modifications necessary to adapt personal property to the replacement structure, the replacement site or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property. Expenses for providing utilities from the right-of-way to the building or improvement are excluded.

(Rule 1680-6-2-.11, continued)

- (d) The costs of storage for personal property, if previously approved by the displacing agency, but not for any period greater than 12 months unless the displacing agency expressly determines that a longer period is necessary.
- (e) The cost of insurance for the replacement value of personal property moved or stored in connection with the relocation, or the reasonable replacement value of property lost, stolen or damaged in the process of moving (not through the fault or negligence of the displaced person or his or her agent or employee), where insurance covering such loss, theft or damage is not reasonably available.
- (f) The cost of obtaining any license, permit or certification required of the displaced person at the replacement location; provided, however, that the reimbursement shall be limited to the remaining useful life of the existing license, permit or certification. Any costs associated with transferring existing licenses, permits or certifications are also eligible for reimbursement.
- (g) The cost of professional services necessary for:
 - 1. Planning the move of the personal property;
 - 2. Moving the personal property; and
 - 3. Installing the relocated personal property at the replacement location.

These services may include fees paid to architects, engineers and other consultants for such services as supervising the move, designing the plant layout for an existing replacement building and scheduling the move.

- (h) The costs of relettering signs and replacing stationery on hand at the time of displacement to the extent that they are made obsolete as a result of the move. The displaced person must turn over to the displacing agency all such materials for which the displaced person is seeking reimbursement, and the amount of reimbursement shall be limited to the costs of replacing these materials.
- (i) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. Except for advertising signs as provided in Part 3 below, the amount of the payment shall include the reasonable cost incurred in attempting to sell the item(s) that are not to be relocated plus the lesser of:
 - 1. The fair market value of the item(s) for continued use at the displacement site, less the proceeds from its sale; provided that:
 - (i) To be eligible for payment, the displaced person must make a good faith effort to sell the personal property, unless the displacing agency determines that such effort is not necessary, and
 - (ii) When payment for property loss is claimed held for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price; or
 - 2. The estimated cost of moving the item(s), but with no allowance for storage; provided that, if the business or farm operation is discontinued, the estimated cost shall be based on a moving distance of 50 miles.

(Rule 1680-6-2-.11, continued)

3. The amount of a payment for direct loss of an advertising sign, as personal property, shall be the lesser of:
 - (i) The depreciated reproduction cost of the sign, as determined by the displacing agency, less the proceeds from its sale; or
 - (ii) The estimated cost of moving the sign, but with no allowance for storage.
- (j) The costs of purchasing substitute personal property to replace an item at the displacement site that is not moved, provided that the substitute item performs a comparable function at the replacement site. The payment shall be for the lesser of:
 1. The cost of the substitute item, including installation costs at the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
 2. The estimated cost of moving and reinstalling the replaced item, but with no allowance for storage. At the displacing agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.
- (k) The actual costs incurred in searching for a replacement location as the displacing agency determines to be reasonable, but not to exceed \$1,000, including the costs for:
 1. Transportation, based on the standard mileage reimbursement rate provided in the displacing agency's own travel regulations, if any, or on the current Standard Mileage Rate established by the Tennessee Department of Finance and Administration in the Comprehensive Travel Regulations, General Reimbursement Rate Schedule;
 2. Meals and lodging away from home, based on the reimbursement rates provided in the displacing agency's own travel regulations, if any, or on the currently applicable rates for lodging and meals established by the Tennessee Department of Finance and Administration in the Comprehensive Travel Regulations, General Reimbursement Rate Schedule;
 3. Time spent searching, based on reasonable salary or earnings; and
 4. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site.
- (l) Other moving-related costs, excluding ineligible moving expenses identified in Rule 1680-6-2-.12 below, as the displacing agency may determine to be reasonable and necessary.
- (2) Self Moves.
 - (a) If the displaced person chooses to take full responsibility for all or part of the move of the business or farm operation, the displacing agency shall pay the displaced person's moving expenses in an amount not to exceed the lower of two acceptable bids or estimates obtained by the displacing agency. At the displacing agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate. No further documentation of expenses shall be required prior to payment except as provided in Paragraph (3) below.
 - (b) The displaced person shall provide the displacing agency with an inventory of all personal property actually moved. If the personal property actually moved is less than the amount

(Rule 1680-6-2-.11, continued)

included in the bid or estimate, the displacing agency may reduce the amount paid to the displaced person in proportion to the lesser amount of property moved.

(3) Notification and Inspection.

- (a) To be reimbursed for actual moving expenses or for a self move, as provided in Paragraphs (1) or (2) above, the dislocated business or farm operation must:
 - 1. Unless waived by the displacing agency, provide the displacing agency with reasonable advance written notice of:
 - (i) The approximate date of the start of the move or disposition of the personal property, and
 - (ii) A certified list of the items to be moved (inventory); and
 - 2. Permit the displacing agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.
- (b) The displacing agency shall notify the displaced person in writing regarding the obligations in Subparagraph (a) above as soon as possible after the initiation of negotiations. This notice may be included with the Notice of Eligibility for Relocation Assistance as set forth in Rule 1680-6-2-.06.

(4) Reestablishment Expenses - Non-Residential.

- (a) In addition to the payments available under Paragraphs (1) or (2) of this Rule, a small business, as defined in Rule 1680-6-2-.03 above, farm operation, or nonprofit organization is entitled to receive a payment for eligible expenses actually incurred in reestablishing such small business, farm operation or non-profit organization. The total amount of any payment for reestablishment expenses shall not exceed \$10,000.
- (b) Eligible Reestablishment Expenses. To be eligible for reimbursement, reestablishment expenses must be reasonable and necessary, as determined by the displacing agency, and such payments shall not duplicate any payment made to the displaced person as a moving expense under Paragraphs (1) or (2) of this Rule. Eligible expenses include, but are not limited to, the following:
 - 1. Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance;
 - 2. Modifications to the replacement property to accommodate the business or farm operation or to make replacement structures suitable for conducting the operation;
 - 3. Construction and installation costs for exterior signing to advertise the business;
 - 4. Provision of utilities from right-of-way to improvements on the replacement site;
 - 5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting;
 - 6. Licenses, fees and permits when not paid as part of moving expenses;

(Rule 1680-6-2-.11, continued)

7. Feasibility surveys, soil testing and marketing studies;
 8. Advertisement of replacement location;
 9. Professional services in connection with the purchase or lease of a replacement site;
 10. Estimated increased costs of operation at the replacement site during the first two years for such items as:
 - (i) Lease or rental charges,
 - (ii) Personal or real property taxes,
 - (iii) Insurance premiums, and
 - (iv) Utility charges, excluding impact fees;
 11. Impact fees or one-time assessments for anticipated heavy utility usage; and
 12. Other items that may be essential to the reestablishment of the business or farm operation, as determined by the displacing agency.
- (c) Ineligible Reestablishment Expenses. The following is a non-exclusive listing of reestablishment expenses that shall not be considered reasonable, necessary or otherwise eligible for reimbursement:
1. The purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures;
 2. The purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation;
 3. Interest on money borrowed to make the move or purchase the replacement property; and/or
 4. Payment to a part-time business in the home that does not contribute materially to the household income.
- (5) Fixed Payment for Moving Expenses.
- (a) Business. A displaced business, other than a nonprofit organization, may be eligible to choose a fixed payment, in lieu of payments for actual moving and related expenses and for reasonable reestablishment expenses as provided in Paragraphs (1) through (4) of this Rule.
1. The displaced business is eligible for a fixed payment if the displacing agency determines that:
 - (i) The business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move, and the business vacates or relocates from its displacement site;
 - (ii) The business cannot be relocated without a substantial loss of its existing patronage (meaning either its clientele or net earnings); provided that the

(Rule 1680-6-2-.11, continued)

business shall be presumed to meet this test unless the displacing agency determines that the business will not suffer a substantial loss of its existing patronage;

- (iii) The business is not part of a commercial enterprise having more than three other entities that are under the same ownership and engaged in the same or similar business activities and which are not being acquired by the displacing agency;
 - (iv) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;
 - (v) The business is not operated at the displacement site solely for the purpose of renting the site to others; and
 - (vi) The business contributed materially to the income of the displaced person during the two taxable years prior to displacement.
 - 2. The amount of such fixed payment shall equal the average annual net earnings of the business, as computed in accordance with Subparagraph (e) below, but in any case the amount of such fixed payment shall not be less than \$1,000 nor more than \$20,000.
- (b) Determining the Number of Businesses. In determining whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, all pertinent factors shall be considered by the displacing agency, including the extent to which:
- 1. The same premises and equipment are shared;
 - 2. Substantially identical or inter-related business functions are carried out and business and financial affairs are commingled;
 - 3. The entities are held out to the public, and to those customarily dealing with them, as one business; and
 - 4. The same person or closely related persons own, control or manage the affairs of the entities.
- (c) Farm Operation. A displaced farm operation may choose a fixed payment in lieu of payments for actual moving and related expenses and for reasonable reestablishment expenses as provided in Paragraphs (1) through (4) of this Rule.
- 1. In the case of a partial acquisition of land that contained a farm operation before the acquisition, the fixed payment shall be made only if the displacing agency determines that:
 - (i) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
 - (ii) The partial acquisition caused a substantial change in the nature of the farm operation.
 - 2. The amount of such fixed payment shall equal the average annual net earnings of the farm operation, as computed in accordance with Subparagraph (e) below, but in any

(Rule 1680-6-2-.11, continued)

case the amount of such fixed payment shall not be less than \$1,000 nor more than \$20,000.

- (d) Nonprofit Organization. A displaced nonprofit organization may be eligible to choose a fixed payment in lieu of payments for actual moving and related expenses and for reasonable reestablishment expenses as provided in Paragraphs (1) through (4) of this Rule.
 - 1. A nonprofit organization is eligible for a fixed payment if the displacing agency determines that the nonprofit organization cannot be relocated without a substantial loss of existing patronage (meaning membership or clientele). A nonprofit organization is presumed to meet this test unless the displacing agency demonstrates otherwise.
 - 2. The amount of such fixed payment shall be the average of two years' annual gross revenues less administrative expenses, but not less than \$1,000 nor more than \$20,000. Any payment in excess of \$1,000 must be supported with financial statements, including either certified financial statements or financial documents required by public agencies, for the two 12-month periods prior to the acquisition.
 - (i) Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate.
 - (ii) Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses.
- (e) Determining Average Annual Net Earnings. The displacing agency shall determine the average annual net earnings of a displaced business or farm operation in accordance with the following criteria:
 - 1. The average annual net earnings shall be equal to one-half of the net earnings of the business or farm operation before the payment of any applicable income taxes during the two taxable years immediately prior to the taxable year in which the business or farm operation was displaced; or
 - 2. If the business or farm operation was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate; or
 - 3. If the displacing agency determines, for well documented reasons, that a different period of operation should be used because the two taxable years prior to displacement are not fairly representative of the business or farm operation, the displacing agency may choose two other consecutive taxable years of operation.
 - 4. Net earnings shall include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependants.
 - 5. To support any payment in excess of \$1,000, the displaced person shall furnish the displacing agency with proof of net earnings through income tax returns or certified financial statements.

(Rule 1680-6-2-.11, continued)

Authority: T.C.A. §§13-11-105 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.11 filed and effective February 1, 2003.

1680-6-2-.12 INELIGIBLE MOVING EXPENSES.

A displaced person is not entitled to payment for:

- (1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership, except for the cost of moving a displacement dwelling as provided in Rule 1680-6-2-.13, Subpart (1)(c)1(ii);
- (2) Interest on a loan to cover moving expenses;
- (3) Loss of goodwill;
- (4) Loss of profits;
- (5) Loss of trained employees; or
- (6) Any additional operating expenses of a business or farm operation incurred because of operating in a new locations, except as provided in Rule 1680-6-2-.11, Paragraph (4), Reestablishment Expenses -- Non-Residential, at Subparagraph (c), Part 10;
- (7) Personal injury;
- (8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the displacing agency;
- (9) Expenses for searching for a replacement dwelling;
- (10) Physical changes to the real property at the replacement location of a business, farm operation or nonprofit organization, except as provided in Rule 1680-6-2-.11, Moving Payments -- Non-Residential, at Paragraphs (1)(c) and (4); or
- (11) Costs for storage of personal property on real property already owned or leased by the displaced person.

Authority: T.C.A. §§13-11-105 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.12 filed and effective February 1, 2003.

1680-6-2-.13 REPLACEMENT HOUSING PAYMENTS.

- (1) Payments for 180-Day Owner-Occupants.
 - (a) Eligibility.

A displaced person is eligible for replacement housing payments as an owner-occupant under this paragraph if:

1. The person has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(Rule 1680-6-2-.13, continued)

2. The person purchases and occupies a decent, safe and sanitary dwelling within one year after the later of the following dates:
 - (i) The date the person receives final payment for the displacement dwelling where the acquisition is by settlement or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or
 - (ii) The date on which the displacing agency meets its obligation to make a comparable replacement dwelling available to the person, as provided in Rule 1680-6-2-07, Paragraph (5).
3. If the displaced person purchases a replacement dwelling before the one-year deadline but is unable to occupy the dwelling for reasons beyond the displaced person's control, the requirement to occupy the replacement dwelling within the one-year period may be waived.

(b) Amount of Payment (Basic Computation).

The replacement housing payment made to an eligible 180-day owner-occupant shall be in an amount, not to exceed \$22,500, necessary to relocate the owner-occupant to a comparable replacement dwelling within the one-year eligibility period, as defined in Subparagraph (a) above. Such payment shall be determined by calculating the sum of:

1. The amount, if any, by which the acquisition cost of the replacement dwelling exceeds the base compensation received for the displacement dwelling, with such cost differential to be determined in accordance with Subparagraph (c) below;
2. The amount of any increased interest costs and other debt service costs that are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with Subparagraph (d) below; and
3. The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with Subparagraph (e) below.

(c) Determining the Cost Differential Between the Replacement Dwelling and the Displacement Dwelling.

1. Acquisition Cost of the Replacement Dwelling.

- (i) Replacement Dwelling. For the purposes of calculating the replacement housing payment for a 180-day owner-occupant under this Rule, the acquisition cost of the replacement dwelling shall be the lesser of:
 - (I) The reasonable cost of a comparable replacement dwelling, as determined in accordance with Subparagraph (3)(a) below; or
 - (II) The purchase price of a decent, safe and sanitary replacement dwelling actually purchased and occupied by the displaced person.
- (ii) Retention of Displacement Dwelling. In the alternative, if the owner-occupant retains ownership of his or her displacement dwelling and moves it from the

(Rule 1680-6-2-.13, continued)

displacement site to reoccupy it at the replacement site, the acquisition cost of the replacement dwelling shall be the sum of:

- (I) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;
- (II) Any additional cost necessary to make the unit a decent, safe and sanitary replacement dwelling;
- (III) The current fair market value for residential use of the replacement site, as determined by appraisal or any other reasonable method, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
- (IV) The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

2. Adjustments to Base Compensation for Displacement Dwelling.

- (i) **Mixed-Use and Multi-Family Properties.** If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the compensation payment actually attributable to the displacement dwelling shall be considered when computing the cost differential.
- (ii) **Insurance Proceeds.** To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a disaster (fire, flood, etc.) shall be included in the base compensation for the displacement dwelling when computing the cost differential.

(d) Increased Mortgage Interest Costs.

- 1. The payment for increased mortgage interest costs shall be the amount that will reduce the mortgage balance on a new mortgage, if any, to an amount that could be amortized with the same monthly payments for principal and interest as that for the mortgage(s) on the displacement dwelling. It shall also include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations.
- 2. The computation of the increased mortgage interest costs payment shall be based on the following:
 - (i) The payment shall be based on the unpaid mortgage balance(s) on the displaced dwelling. In the event, however, that the person obtains a smaller mortgage than the mortgage balance computed in the buydown determination, the payment shall be prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(Rule 1680-6-2-.13, continued)

- (ii) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.
 - (iii) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages charged by mortgage lending institutions in the area in which the replacement dwelling is located.
 - (iv) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent that:
 - (I) They are not paid as incidental expenses;
 - (II) They do not exceed rates normal to similar real estate transactions in the area;
 - (III) The displacing agency determines them to be necessary; and
 - (IV) The computation of such points and fees shall be based on the unpaid mortgage balance(s) on the displacement dwelling, less the amount determined for the reduction of such mortgage balance(s) under this part.
 - (v) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.
- (e) Incidental Expenses.

The incidental expenses to be paid are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including the following:

1. Legal, closing and related costs, including those for title search, title insurance, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;
2. Lender, FHA or VA application and appraisal fees;
3. Loan origination or assumption fees that do not represent prepaid interest;
4. Certification of structural soundness, and termite inspection when required;
5. Credit report;
6. Owner's and mortgagee's evidence or assurance of title, e.g., title insurance (not to exceed the costs for evidence or assurance of title for a comparable replacement dwelling);
7. Escrow agent's fee;

(Rule 1680-6-2-.13, continued)

8. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling);
9. Mortgage default insurance (based on the unpaid mortgage balance(s) on the displacement dwelling or the new mortgage amount, whichever is less); and
10. Such other costs as the displacing agency determines are normally incidental to the purchase of similar real estate in the area.

(f) Rental Assistance Payment for 180-Day Owner-Occupant.

A displaced 180-day owner-occupant eligible for a replacement housing payment under Paragraph (1) of this Rule may choose to rent a replacement dwelling. In such case, the displaced person is entitled to receive a rental assistance payment, not to exceed \$5,250, in lieu of a replacement housing payment. The amount of the rental assistance payment shall be calculated and disbursed in accordance with Subparagraph (2)(b) of this Rule.

(2) Replacement Housing Payments for 90-Day Occupants.

(a) Eligibility.

A tenant or owner-occupant displaced from a dwelling is entitled to a payment, not to exceed \$5,250, for rental assistance, as computed in accordance with Subparagraph (b) below, or down payment assistance, as computed in accordance with Subparagraph (c) below, if the displaced person:

1. Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and
2. Has rented, or purchased, and occupied a decent, safe and sanitary replacement dwelling within one year (unless the displacing agency extends this period for good cause based on occurrences beyond the displaced person's control) after:
 - (i) In the case of a tenant, the date the person moves from the displacement dwelling, or
 - (ii) In the case of an owner-occupant, the later of:
 - (I) The date the person receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court, or
 - (II) The date the person moves from the displacement dwelling.

(b) Rental Assistance Payment.

1. Amount of Payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment, not to exceed \$5,250, for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rent for the displacement dwelling, as calculated in accordance with Part 2 below, from the lesser of:
 - (i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(Rule 1680-6-2-.13, continued)

- (ii) The monthly rent and estimated average monthly costs of utilities for the decent, safe and sanitary dwelling actually occupied by the displaced person.
 - 2. Base Monthly Rent For Displacement Dwelling. The base monthly rent for the displacement dwelling is the lesser of:
 - (i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the displacing agency, except that:
 - (I) For an owner-occupant, the monthly rent shall be the fair market rent for the displacement dwelling, or
 - (II) For a tenant who paid little or no rent, the monthly rent shall be the fair market rent, unless its use would create a hardship because of the person's income or other circumstances;
 - (ii) Thirty (30%) percent of the person's average gross monthly income, except that if the person refuses to provide appropriate evidence of income or is a dependent (a full time student or resident of an institution may be assumed to be a dependant unless the person demonstrates otherwise), the base monthly rent shall be established solely on the criteria in Subpart 2(i) above; or
 - (iii) The total of the amounts designated for shelter and utilities if the person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.
 - 3. Manner of Disbursement. A rental assistance payment may, at the displacing agency's discretion, be disbursed either in a lump sum or in installments. However, except as limited by Subparagraph (3)(k) below, the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.
- (c) Down Payment Assistance Payment.
- 1. Eligibility. A displaced person eligible for a rental assistance payment under Paragraph (2) of this Rule is also eligible to receive a down payment assistance payment if the person chooses to purchase a replacement dwelling. Any displaced person eligible to receive a replacement housing payment as a 180-day owner-occupant is not eligible for this payment.
 - 2. Amount of Payment. The amount of the down payment assistance payment shall be equal to the amount the person would receive under Subparagraph (2)(b) of this Rule if the person rented a comparable replacement dwelling. At the discretion of the displacing agency, the down payment assistance payment may be increased to any amount not to exceed \$5,250, or the amount the person would receive as a replacement housing payment if the person met the 180-day occupancy requirement, whichever is less. The displacing agency's discretion to provide the maximum shall be exercised in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally.

(Rule 1680-6-2-.13, continued)

3. Application of Payment. The full amount of the down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

(3) Additional Rules Governing Replacement Housing Payments.

(a) Determining the Acquisition Cost of Comparable Replacement Dwelling.

The upper limit of a replacement housing payment shall be based on the cost (asking price) of a comparable replacement dwelling identified for the displaced person.

1. If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to or better than, the displacement dwelling. An adjustment shall be made to the asking price of any dwelling to the extent justified by local market data. An obviously overpriced dwelling may be ignored.

If an adjustment is made in the replacement housing payment computation and the displaced person purchases the selected comparable dwelling but at a price higher than the adjusted price, the replacement housing payment will be adjusted upward to reflect the actual purchase price of the replacement dwelling.

2. If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, e.g., the site is significantly smaller or does not contain a swimming pool, the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.
3. If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the displacing agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the displacing agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.
4. To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(b) Inspection of Replacement Dwelling.

Before making a replacement housing payment or releasing a payment from escrow, the displacing agency or its designated agent shall inspect the replacement dwelling and determine whether it is a decent, safe and sanitary dwelling.

(c) Statement of Eligibility to Lending Agency.

If the displaced person qualifies for a replacement housing payment but has not yet purchased or occupied a replacement dwelling, the displacing agency shall, upon the request of the displaced person, provide a written statement to any interested party, financial institution or lending agency, that the displaced person is eligible for the payment of a specific sum subject to the displacing agency's requirements.

(Rule 1680-6-2-.13, continued)

(d) Revisions to the Replacement Housing Payment.

When replacement housing, similar in price and comparability to the dwelling used in the original replacement housing computation, is no longer available, the displacing agency shall make any necessary referrals to comparable housing currently available, and the displacing agency shall revise the replacement housing payment subject to the following requirements:

1. The revised offer may not be less than the original offer merely because a less expensive comparable becomes available.
2. A replacement housing payment offer shall be revised and may be less than the original offer if:
 - (i) The appraisal is updated and the offer for the displacement dwelling and site is increased;
 - (ii) In condemnation cases, the final award is greater than the acquisition offer for the displacement dwelling and site; or
 - (iii) In the case of an administrative settlement, the initial acquisition offer for the displacement dwelling and site is increased.
3. Except in those cases where the acquisition offer is increased, the primary purpose of a revised replacement housing payment offer is to provide the displaced person with information regarding currently available replacement housing. Therefore, if replacement dwellings similar in price and comparability to the dwelling used in the original replacement housing payment computation are available, a revised offer is not necessary. However, current listings must be provided to the displaced person if requested.

(e) Purchase of Replacement Dwelling.

A displaced person shall be considered to have met the requirement to purchase a replacement dwelling under any one of the following conditions:

1. The displaced person purchases an existing decent, safe and sanitary dwelling.
2. The displaced person purchases and rehabilitates a substandard dwelling; provided, that in such a case the displacing agency shall pay the person an amount, not to exceed the amount offered as a replacement housing payment, to the extent that the sum of the following exceeds the acquisition price for the displacement dwelling:
 - (i) The purchase price of the substandard dwelling; plus
 - (ii) The costs of undertaking any actions pre-approved by the displacing agency as being necessary to make the dwelling decent, safe, and sanitary, but not to make the dwelling comparable.
3. The displaced person relocates a dwelling that the displaced person owns or purchases; provided, that in such a case the displacing agency shall pay the person an amount, not to exceed the amount offered as a replacement housing payment, to the extent that the sum of the following exceeds the acquisition price for the displacement dwelling:

(Rule 1680-6-2-.13, continued)

- (i) The retention value or current fair market value of the relocated dwelling; plus
 - (ii) The cost of moving the relocated dwelling; plus
 - (iii) The cost of undertaking any actions pre-approved by the displacing agency as being necessary to restore the relocated dwelling to a condition comparable to that prior to the move; plus
 - (iv) The cost of undertaking any actions pre-approved by the displacing agency as being necessary to make the relocated dwelling a decent, safe and sanitary dwelling; plus
 - (v) The cost of purchasing the replacement site, up to an amount not to exceed the cost of an available suitable replacement site, or the current fair market value of the replacement site, in any case where the relocated dwelling is moved to remainder land adjacent to the site of the displacement dwelling or on other land previously owned by the displaced person.
- 4. The displaced person constructs a decent, safe, and sanitary dwelling on a site which the displaced person owns or purchases; provided, that in such a case the displacing agency shall pay the person an amount, not to exceed the amount offered as a replacement housing payment, to the extent that the sum of the following exceeds the acquisition price for the displacement dwelling:
 - (i) The cost of constructing a decent, safe and sanitary dwelling; plus
 - (ii) The cost of purchasing the replacement site, up to an amount not to exceed the cost of an available suitable replacement site, or the current fair market value of the replacement site, in any case where the relocated dwelling is constructed on remainder land adjacent to the site of the displacement dwelling or on other land previously owned by the displaced person.
- 5. The displaced person contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases.
- 6. The displaced person occupies a decent, safe, and sanitary dwelling that the displaced person previously owned, in which case the acquisition cost for the replacement dwelling shall be the current fair market value of that dwelling.
- (f) Occupancy Requirements for Displacement or Replacement Dwelling.

No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements for a displacement or replacement dwelling set forth in these Rules for a reason beyond the displaced person's control, including:

 - 1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the agency funding the project, or the displacing agency; or
 - 2. Another reason, such as delay in the construction of the replacement dwelling, military reserve duty, or hospital stay, as determined by the displacing agency.
- (g) Conversion of Payment.

(Rule 1680-6-2-.13, continued)

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under Rule 1680-6-2-.13, Subparagraph (2)(b), is eligible to receive a replacement housing payment under Rule 1680-6-2-.13, Paragraph (1), or a down payment assistance payment under Rule 1680-6-2-.13, Subparagraph (2)(c), if the displaced person meets the applicable eligibility requirements for such payments, including purchase and occupancy within the prescribed one-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the replacement housing payment or down payment assistance payment.

(h) Payment After Death.

A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

1. The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid;
2. The full payment shall be disbursed in any case in which a member of the displaced family dies and the other family members continue to occupy a decent, safe, and sanitary replacement dwelling; and
3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

Authority: T.C.A. §§13-11-106, 13-11-107, and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.13 filed and effective February 1, 2003.

1680-6-2-.14 MOBILE HOMES.

(1) Applicability.

This Rule describes the requirements governing relocation payments to any person displaced from a mobile home or mobile home site who meets the basic eligibility requirements of the Act and these Rules. Except as modified by this Rule, such a displaced person is entitled to a moving expense payment in accordance with Rule 1680-6-2-.10 and a replacement housing payment in accordance with Rule 1680-6-2-.13 to the same extent and subject to the same requirements as persons displaced from other dwellings.

(2) Moving and Related Expenses.

(a) General.

A homeowner-occupant displaced from a mobile home or mobile home site is entitled to a payment for the cost of moving his or her mobile home on an actual cost basis in accordance with Rule 1680-6-2-.10 (Moving Payments -- Residential Moves). However, if the mobile home is not acquired by the displacing agency, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described in Paragraph (3) of this Rule, the owner is not eligible for any payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home. A non-occupant

(Rule 1680-6-2-.14, continued)

owner of a mobile home rented to other persons is eligible for actual cost reimbursement under Rule 1680-6-2-.11 (Moving Payments -- Non-Residential Moves).

(b) Actual Moving Expenses.

For mobile homes, the following provisions apply to payments for actual moving expenses under Rule 1680-6-2-.10:

1. A displaced mobile homeowner who moves the mobile home to a replacement site is eligible for the reasonable costs of disassembling, moving and reassembling any attached appurtenances, such as porches, decks, skirting and awnings, that were not acquired by the displacing agency. In addition, the mobile homeowner is eligible for the reasonable costs of anchoring the unit and utility "hook up" charges.
2. If a mobile home requires repairs and/or modifications so that it can be moved and/or made decent, safe and sanitary, and the displacing agency determines that it would be economically feasible to incur the additional expense, the reasonable cost of such repairs and/or modifications is reimbursable.
3. If a mobile homeowner is displaced from a mobile home park and the displacing agency determines that there are no comparable mobile home parks available that do not require a mobile home park entrance fee, such entrance fee is reimbursable to the extent it does not exceed the fee at a comparable mobile home park. To the extent that any part of an entrance fee (such as a security deposit) is refundable, it shall not be reimbursable. In order to be reimbursed for an entrance fee as provided in this Part, the displaced mobile homeowner must provide the displacing agency with both a lease agreement for the replacement site and a receipt for payment of the entrance fee.

(3) Replacement Housing Payment for 180-Day Mobile Homeowner- Occupants.

(a) Eligibility.

A displaced owner-occupant of a mobile home is entitled to a replacement housing payment, not to exceed \$22,500, under Rule 1680-6-2-.13 if:

1. The person both owned the displacement mobile home and occupied it on the displacement site for at least 180 days immediately prior to the initiation of negotiations;
2. The person meets the other basic eligibility requirements under Rule 1680-6-2-.13, Subparagraph (1)(a); and
3. The displacing agency either:
 - (i) Acquires the mobile home and/or mobile home site as real property; or
 - (ii) If not acquired, the displacing agency determines that the mobile home:
 - (I) Is not and cannot economically be made decent, safe and sanitary,
 - (II) Cannot be relocated without substantial damage or unreasonable cost,

(Rule 1680-6-2-.14, continued)

(III) Cannot be relocated because there is no available comparable replacement site, or

(IV) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) Computation of Payment.

If the mobile home is not acquired, the base compensation for the displacement dwelling used for the purpose of computing the cost differential amount, described in Rule 1680-6-2-.13, Subparagraph (1)(c), shall include either the salvage value or the trade-in value of the mobile home, whichever is higher.

(4) Replacement Housing Payments for 90-Day Mobile Home Occupants.

(a) Tenants.

A displaced tenant of a mobile home is eligible for a replacement housing payment, not to exceed \$5,250, under Rule 1680-6-2-.13, Paragraph (2), if:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations; and
2. The person meets the other basic eligibility requirements under Rule 1680-6-2-.13, Subparagraph (2)(a).

(b) Owner-Occupants.

A displaced owner-occupant of a mobile home is eligible for a replacement housing payment, not to exceed \$5,250, under Rule 1680-6-2-.13, Paragraph (2), if:

1. The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;
2. The person meets the other basic eligibility requirements under Rule 1680-6-2-.13, Subparagraph (2)(a); and
3. The displacing agency either:
 - (i) Acquires the mobile home and/or mobile home site as real property; or
 - (ii) If not acquired, the displacing agency determines that the mobile home:
 - (I) Is not and cannot economically be made decent, safe and sanitary,
 - (II) Cannot be relocated without substantial damage or unreasonable cost,
 - (III) Cannot be relocated because there is no available comparable replacement site, or
 - (IV) Cannot be relocated because it does not meet mobile home park entrance requirements.

(Rule 1680-6-2-.14, continued)

(5) Additional Rules Governing Relocation Payments to Mobile Home Occupants.

(a) Replacement Housing Payment Based On Dwelling and Site.

Both the mobile home and mobile home site must be considered when computing a replacement housing payment. For example, a displaced mobile home occupant may have owned the displacement mobile home and rented the site or may have rented the displacement mobile home and owned the site. Also, a person may choose to purchase a replacement mobile home and rent a replacement site, or the person may choose to rent a replacement mobile home and purchase a site. In such cases, the total replacement housing payment shall consist of a payment for a dwelling and a payment for a site, each computed under the applicable paragraph of Rule 1680-6-2-.13 (Replacement Housing Payments). However, the total replacement housing payment under Rule 1680-6-2-.13 shall not exceed the maximum payment (either \$22,500 or \$5,250) permitted under the paragraph that governs the computation for the dwelling.

(b) Cost of Comparable Replacement Dwelling.

1. In general, when computing the amount of a replacement housing payment for a person displaced from a mobile home, the acquisition cost of a replacement dwelling shall be the reasonable cost of a comparable replacement mobile home. This applies whether the displaced person's actual replacement dwelling is another mobile home or some other dwelling. However, if a comparable mobile home is not available, the replacement housing payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.
2. If the displacing agency determines that it would be practical to relocate the mobile home but the owner-occupant chooses not to do so, the displacing agency may determine that, for purposes of computing the cost differential under Rule 1680-6-2-.13, Subparagraph (1)(c), the acquisition cost of a comparable replacement dwelling is the sum of:
 - (i) The value of the mobile home,
 - (ii) The cost of any necessary repairs or modifications, and
 - (iii) The estimated cost of moving the mobile home to a replacement site.

(c) Initiation of Negotiations.

If the mobile home is not actually acquired, but the occupant is considered displaced under this Rule, the initiation of negotiations shall be the date of initiation of negotiations to acquire the land, or, if the land is not acquired, the date that the occupant is provided with written notification that he or she is a displaced person.

(d) Person Moves Mobile Home.

If the owner is reimbursed for the cost of moving the mobile home under this Rule, he or she is not eligible to receive a replacement housing payment to assist in purchasing or renting a replacement mobile home. The person may, however, be eligible for assistance in purchasing or renting a replacement site.

(e) Partial Acquisition of Mobile Home Park.

(Rule 1680-6-2-.14, continued)

The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the displacing agency determines that a mobile home located on the remaining part of the property must be moved as a direct result of the project, the owner and tenant shall be considered a displaced person who is entitled to relocation payments and other assistance under this Rule.

Authority: T.C.A. §13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.14 filed and effective February 1, 2003.

1680-6-2-.15 LAST RESORT HOUSING.

(1) Determination to Provide Last Resort Housing.

If the displacing agency determines that a project cannot proceed on a timely basis because comparable replacement dwellings are not available within the maximum payments specified under Rule 1680-6-2-.13, Paragraphs (1) or (2), as applicable, the displacing agency may provide additional assistance as necessary under this Rule. Before deciding to provide last resort housing assistance under this Rule, the displacing agency must determine either:

- (a) That there is good cause to provide such assistance to a displaced person in a particular case based on:
 - 1. The lack of availability of comparable replacement housing within the project area;
 - 2. The resources available to provide comparable replacement housing; and
 - 3. The individual circumstances of the displaced person; or
- (b) That there is good cause to provide such assistance to displaced persons within an entire project area based on:
 - 1. The lack of availability of comparable replacement housing for any displaced persons within the project area;
 - 2. The inability to complete the project in a timely manner without last resort housing assistance; and
 - 3. The selection of a method for providing last resort housing assistance that is cost effective when compared to the costs of delaying the project until less expensive comparable replacement housing may become available.

(2) Basic Rights of Persons to Be Displaced.

- (a) No person shall be required to move from a displacement dwelling under this Rule until after comparable replacement housing has been made available to such person, except temporarily in the case of a major disaster or emergency as described in Rule 1680-6-2-.07, Subparagraph (5)(c).
- (b) The displacing agency shall not require any displaced person to accept a dwelling provided by the displacing agency under this Rule (unless the displacing agency and the displaced person

(Rule 1680-6-2-.15, continued)

have entered into a written contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

- (c) Nothing in this Rule shall deprive a person of any rights such person may otherwise have under the Act or these Rules.

(3) Methods of Providing Last Resort Housing.

(a) Generally.

The displacing agency shall have wide latitude in determining the method for providing last resort housing assistance on a case-by-case basis, or on a project-wide basis, where justified under Paragraph (1) of this Rule, but the implementation shall not exceed a reasonable cost. The methods of providing last resort housing may include, but are not limited to:

1. A replacement housing payment in excess of the limits set forth in the Act and Rule 1680-6-2-.13, Paragraphs (1) and (2). A rental assistance payment under this Rule may be provided in installments or in a lump sum at the displacing agency's discretion.
2. Rehabilitation of and/or additions to an existing replacement dwelling.
3. The construction of new replacement housing.
4. The relocation and, if necessary, rehabilitation of a dwelling.
5. The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with, a displaced person.
6. The removal of barriers to the handicapped.
7. The change in status of the displaced person, with his or her concurrence, from tenant to homeowner when it is more cost effective to do so, as in cases where a down payment may be less expensive than a last resort rental assistance payment.

(b) Special Circumstances.

Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling, provided that the replacement dwelling is functionally equivalent to the displacement dwelling (as described in the definition of "comparable replacement dwelling" set forth in Rule 1680-6-2-.03). Examples include:

1. Providing smaller, but superior, replacement housing that is decent, safe and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing, only a portion of which is being used as living quarters, and where no comparable large dwellings are available in the area.
2. Providing a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

(c) Otherwise Ineligible Displaced Persons.

(Rule 1680-6-2-.15, continued)

The displacing agency shall provide assistance under this Rule to a displaced person who is not eligible to receive a replacement housing payment under Rule 1680-6-2-.13, Paragraph (1) or (2), because of failure to meet the length of occupancy requirements when comparable replacement housing is not available at rental rates within the person's financial means, which is 30 % of the person's gross monthly household income. Such assistance shall cover a period of 42 months.

Authority: T.C.A. §§13-11-109 and 13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.15 filed and effective February 1, 2003.

1680-6-2-.16 APPEALS.**(1) Actions That May Be Appealed.**

A displaced person may appeal to the head of the displacing agency if the person believes that the displacing agency has:

- (a) Improperly determined the person's eligibility for relocation benefits; or
- (b) Improperly determined the amount of a relocation payment.

(2) Form and Time for Initiating an Appeal.

- (a) The appeal shall be in writing in any form sufficient to identify the displacing agency action that is being appealed.
- (b) The appeal must be submitted to head of the displacing agency within 60 days after the displaced person receives written notice of the displacing agency action being appealed, unless the displacing agency has expressly identified another person to receive the appeal or allowed a longer period of time for filing the appeal.

(3) Displacing Agency Official to Review Appeal.

The appeal shall be reviewed by the head of the displacing agency, or such other agency official(s) as the head of the displacing agency may designate, with authority to affirm, reverse or modify the displacing agency action under review; provided, however, that the official(s) reviewing the appeal shall not have been directly involved in the action being appealed.

(4) Scope of Review of Appeal.

In deciding an appeal, the head of the displacing agency, or other designated official(s), shall consider any relevant information submitted by the displaced person and the displacing agency, and such additional information as the official(s) may request or require as needed to conduct a fair and full review of the appeal.

(5) Representation.

The displaced person may be assisted in the appeal by legal counsel or other representative, but solely at the displaced person's own expense.

(6) Notification of Decision on Appeal.

Within 30 days after hearing the displaced person's appeal, or after the receipt of all relevant information submitted by or requested from the displaced person, the head of the displacing agency, or designee(s), shall send the displaced person a written notice of the decision on the appeal, including an explanation of the basis on which the decision was made. The time for making the decision may be extended for good cause upon written notice to the displaced person.

(7) Review of Decision on Appeal.

The decision of the head of the displacing agency, or authorized designee(s), shall be final and is not subject to judicial review except as the law may allow under a common law writ of certiorari.

(Rule 1680-6-2-.16, continued)

Authority: T.C.A. §13-11-113. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal and new rule filed October 31, 2002; effective January 14, 2003. Rule has been assigned a new control number from 1680-2-4-.16 filed and effective February 1, 2003.

1680-6-2-.17 THROUGH 1680-6-2-.37 REPEALED.

Authority: T.C.A. §§13-11-102, 13-11-113, and 13-11-119. **Administrative History:** Original rule filed August 12, 1974; effective September 11, 1974. Repeal filed October 31, 2002; effective January 14, 2003. Rules have been assigned a new control number from 1680-2-4-.17 through 1680-2-4-.37 filed and effective February 1, 2003.